

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 319

Introduced by Assembly Member Niello

*(Coauthors: Assembly Members Adams, Bill Berryhill, DeVore,
Harkey, Jeffries, Knight, and Smyth)*

(Coauthors: Senators Cox, Denham, Harman, Huff, and Runner)

February 18, 2009

An act to amend Sections 336, 342, 9001, 9002, 9003, 9004, 9005, 9007, 9008, 9034, 9035, 9050, 9051, 9052, 9053, 9054, 9063, 9086, 13247, 13262, 13281, 13282, and 18602 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 319, as amended, Niello. Elections: ballot titles.

Existing law requires the Attorney General, upon receipt of a draft of a petition for a proposed initiative or referendum, to prepare a title and summary of the proposed measure. Under existing law, the Attorney General is required to determine the effect of a proposed initiative measure on revenues and expenditures of the state or local government. If the Attorney General determines that a proposed measure would affect state or local revenues or expenditures, he or she must include in the title either the estimate of the amount of change in state or local revenues or costs or an opinion as to whether a substantial net change in state or local finances would result if the proposed initiative is adopted. Existing law requires the Department of Finance and the Joint Legislative Budget Committee to prepare jointly the fiscal estimate that is included in the title.

This bill would require the Legislative Analyst, instead of the Attorney General, to prepare the ballot title and summary for all measures submitted to the voters of the state and would require the Legislative Analyst, instead of the Department of Finance and the Joint Legislative Budget Committee, to prepare any fiscal estimate or opinion required by a proposed initiative measure.

The bill would make its operation contingent upon the approval by the voters of ~~an unspecified amendment to the California Constitution~~ *ACA 20 of the 2009–10 Regular Session*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 336 of the Elections Code is amended to
2 read:

3 336. The “official summary date” is the date a summary of a
4 proposed initiative measure is delivered or mailed by the
5 Legislative Analyst to the proponents for a proposed initiative
6 measure. The Legislative Analyst shall immediately notify the
7 Secretary of State of that date and send the Secretary of State a
8 copy of the summary. The Secretary of State immediately shall
9 notify the proponents and county elections official of each county
10 of the official summary date and mail a copy of the summary to
11 each county elections official. This notification shall also include
12 a complete schedule showing the maximum filing deadline, and
13 the certification deadline by the counties to the Secretary of State.

14 No petitions for a proposed initiative measure shall be circulated
15 for signatures prior to the official summary date. Petitions with
16 signatures on a proposed initiative measure shall be filed with the
17 county elections official not later than 150 days from the official
18 summary date, and no county elections official shall accept
19 petitions on the proposed initiative measure after that period.

20 SEC. 2. Section 342 of the Elections Code is amended to read:

21 342. “Proponent or proponents of an initiative or referendum
22 measure” means, for statewide initiative and referendum measures,
23 the person or persons who submit a draft of a petition proposing
24 the measure to the Legislative Analyst with a request that he or
25 she prepare a title and summary of the chief purpose and points
26 of the proposed measure; or for other initiative and referendum

1 measures, the person or persons who publish a notice or intention
2 to circulate petitions, or, if publication is not required, who file
3 petitions with the elections official or legislative body.

4 SEC. 3. Section 9001 of the Elections Code is amended to read:

5 9001. The heading of a proposed initiative measure shall be in
6 substantially the following form:

7 Initiative Measure to Be Submitted Directly to the Voters

8 The Legislative Analyst of California has prepared the following
9 title and summary of the chief purpose and points of the proposed
10 measure:

11 (Here set forth the title and summary prepared by the Legislative
12 Analyst. This title and summary must also be printed across the
13 top of each page of the petition whereon signatures are to appear.)

14 To the Honorable Secretary of State of California
15

16 We, the undersigned, registered, qualified voters of California,
17 residents of ____ County (or City and County), hereby propose
18 amendments to the Constitution of California (the ____ Code,
19 relating to ____) and petition the Secretary of State to submit the
20 same to the voters of California for their adoption or rejection at
21 the next succeeding general election or at any special statewide
22 election held prior to that general election or otherwise provided
23 by law. The proposed constitutional (or statutory) amendments
24 (full title and text of the measure) read as follows:

25 SEC. 4. Section 9002 of the Elections Code is amended to read:

26 9002. Prior to the circulation of an initiative or referendum
27 petition for signatures, a draft of the proposed measure shall be
28 submitted to the Legislative Analyst with a written request that a
29 title and summary of the chief purpose and points of the proposed
30 measure be prepared. The title and summary shall not exceed a
31 total of 100 words.

32 The persons presenting the request shall be known as the
33 “proponents.”

34 The Legislative Analyst shall preserve the written request until
35 after the next general election.

36 SEC. 5. Section 9003 of the Elections Code is amended to read:

37 9003. If the Legislative Analyst is a proponent of a proposed
38 measure, the title and summary of the chief purpose and points of
39 the proposed measure, including an estimate or opinion on the
40 financial impact of the measure, shall be prepared by the

1 Legislative Counsel, and the other duties of the Legislative Analyst
2 specified in this chapter with respect to the title and summary and
3 an estimate of the financial effect of the measure shall be performed
4 by the Legislative Counsel.

5 SEC. 6. Section 9004 of the Elections Code is amended to read:

6 9004. (a) Upon receipt of a draft of a petition, the Legislative
7 Analyst shall prepare a summary of the chief purposes and points
8 of the proposed measure. The summary shall be prepared in the
9 manner provided for the preparation of ballot titles in Article 5
10 (commencing with Section 9050), the provisions of which in regard
11 to the preparation, filing, and settlement of titles and summaries
12 are hereby made applicable to the summary. The Legislative
13 Analyst shall provide a copy of the title and summary to the
14 Secretary of State within 15 days after receipt of the final version
15 of a proposed initiative measure, or if a fiscal estimate or opinion
16 is to be included, within 15 days after determining a fiscal estimate
17 or opinion is required pursuant to Section 9005.

18 (b) If during the 15-day period, the proponents of the proposed
19 initiative measure submit amendments, other than technical,
20 nonsubstantive amendments, to the final version of the measure,
21 the Legislative Analyst shall provide a copy of the title and
22 summary to the Secretary of State within 15 days after receipt of
23 the amendments.

24 (c) The proponents of an initiative measure, at the time of
25 submitting the draft of the measure to the Legislative Analyst,
26 shall pay a fee of two hundred dollars (\$200), which shall be placed
27 in a trust fund in the office of the Treasurer and refunded to the
28 proponents if the measure qualifies for the ballot within two years
29 from the date the summary is furnished to the proponents. If the
30 measure does not qualify within that period, the fee shall be
31 immediately paid into the General Fund of the state.

32 SEC. 7. Section 9005 of the Elections Code is amended to read:

33 9005. (a) Notwithstanding Section 9004, the Legislative
34 Analyst, in preparing a title or summary for an initiative measure,
35 shall determine whether the substance thereof if adopted would
36 affect the revenues or expenditures of the state or local government,
37 and if he or she determines that it would, he or she shall include
38 in the title either the estimate of the amount of any increase or
39 decrease in revenues or costs to the state or local government, or
40 an opinion as to whether or not a substantial net change in state or

1 local finances would result if the proposed initiative is adopted.
2 The Legislative Analyst may request the assistance of any state
3 department, agency, or official in preparing the estimate required
4 by this subdivision.

5 (b) The estimate shall be completed by the Legislative Analyst
6 within 15 days from the date of determining that the estimate is
7 required, unless in the opinion of the Legislative Analyst a
8 reasonable estimate of the net impact of the proposed initiative
9 cannot be prepared within the 15-day period. In the latter case, the
10 Legislative Analyst shall, within the 15-day period, give his or her
11 opinion as to whether or not a substantial net change in state or
12 local finances would result if the proposed initiative is adopted.

13 SEC. 8. Section 9007 of the Elections Code is amended to read:

14 9007. Immediately upon the preparation of the summary of an
15 initiative or referendum petition, the Legislative Analyst shall
16 forthwith transmit copies of the text of the measure and summary
17 to the Senate and Assembly. The appropriate committees of each
18 house may hold public hearings on the subject of the measure.
19 However, nothing in this section shall be construed as authority
20 for the Legislature to alter the measure or prevent it from appearing
21 on the ballot.

22 SEC. 9. Section 9008 of the Elections Code is amended to read:

23 9008. Every proposed initiative measure, prior to circulation,
24 shall have placed across the top of the petition in 12-point or larger
25 roman boldface type, all of the following:

26 (a) The summary prepared by the Legislative Analyst upon each
27 page of the petition on which signatures are to appear.

28 (b) The summary prepared by the Legislative Analyst upon each
29 section of the petition preceding the text of the measure.

30 (c) The summary prepared by the Legislative Analyst as required
31 by subdivision (b) shall be preceded by the following statement:
32 "Initiative measure to be submitted directly to the voters."

33 SEC. 10. Section 9034 of the Elections Code is amended to
34 read:

35 9034. Upon the certification of an initiative measure for the
36 ballot, the Secretary of State shall transmit copies of the initiative
37 measure, together with the ballot title as prepared by the Legislative
38 Analyst pursuant to Section 9050, to the Senate and Assembly.
39 Each house shall assign the initiative measure to its appropriate
40 committees. The appropriate committees shall hold joint public

1 hearings on the subject of the measure prior to the date of the
2 election at which the measure is to be voted upon. However, no
3 hearing may be held within 30 days prior to the date of the election.

4 Nothing in this section shall be construed as authority for the
5 Legislature to alter the initiative measure or prevent it from
6 appearing on the ballot.

7 SEC. 11. Section 9035 of the Elections Code is amended to
8 read:

9 9035. An initiative measure may be proposed by presenting to
10 the Secretary of State a petition that sets forth the text of the
11 proposed statute or amendment to the Constitution and is certified
12 to have been signed by registered voters equal in number to 5
13 percent in the case of a statute, and 8 percent in the case of an
14 amendment to the Constitution, of the voters for all candidates for
15 Governor at the last gubernatorial election preceding the issuance
16 of the title and summary for the initiative measure by the
17 Legislative Analyst.

18 SEC. 12. Section 9050 of the Elections Code is amended to
19 read:

20 9050. The Legislative Analyst shall provide and return to the
21 Secretary of State a ballot title for a measure submitted to the voters
22 of the whole state.

23 SEC. 13. Section 9051 of the Elections Code is amended to
24 read:

25 9051. A person who is interested in a proposed measure may
26 at any time, prior to 150 days before the election at which the
27 measure is to be voted upon, file a copy of it with the Secretary of
28 State, together with a request that a ballot title be prepared for it.
29 This request shall be accompanied by the address of the person or
30 association of persons proposing the measure. The Secretary of
31 State shall immediately transmit a copy of the measure to the
32 Legislative Analyst. Within 10 days after it is filed, the Legislative
33 Analyst shall provide and return to the Secretary of State a ballot
34 title for the measure. The ballot title may differ from the legislative
35 or other title of the measure and shall express in not exceeding
36 100 words the purpose of the measure. In providing the ballot title,
37 the Legislative Analyst shall give a true and impartial statement
38 of the purpose of the measure in such language that the ballot title
39 shall neither be an argument, nor be likely to create prejudice, for
40 or against the proposed measure.

1 SEC. 14. Section 9052 of the Elections Code is amended to
2 read:

3 9052. Immediately upon receipt of the ballot title prepared by
4 the Legislative Analyst, the Secretary of State shall mail to the
5 persons who may have requested the preparation of that ballot
6 title, a notice addressed to them at the address accompanying the
7 request, stating that the Legislative Analyst has made and returned
8 the ballot title. The notice shall also contain a copy of the ballot
9 title prepared by the Legislative Analyst.

10 SEC. 15. Section 9053 of the Elections Code is amended to
11 read:

12 9053. A measure shall be designated on the ballot by the ballot
13 title certified to the Secretary of State by the Legislative Analyst.

14 SEC. 16. Section 9054 of the Elections Code is amended to
15 read:

16 9054. (a) Whenever a city, county, or city and county is
17 required by Section 203 (42 U.S.C. Sec. 1973aa-1a) or Section
18 4(f)(4) (42 U.S.C. Sec. 1973b(f)(4)) of the federal Voting Rights
19 Act of 1965 to provide a translation of ballot materials in a
20 language other than English, the Secretary of State shall provide
21 a translation of the ballot title prepared pursuant to Section 9050
22 and of the condensed statement of the ballot title prepared pursuant
23 to Section 13247 in that language to the city, county, or city and
24 county for a state measure submitted to the voters in a statewide
25 election not later than 68 days prior to that election.

26 (b) When preparing a translation in a language other than
27 English pursuant to subdivision (a), the Secretary of State shall
28 consult with an advisory body consisting of language experts and
29 nonpartisan organizations that advocate on behalf of, or provide
30 services to, individuals that speak that language.

31 (c) Translations prepared pursuant to this section shall be made
32 available for public examination in the same time and manner as
33 the ballot pamphlet is made available for public examination in
34 accordance with Section 88006 of the Government Code and
35 Section 9092 of this code.

36 (d) The local elections official shall use the translation of the
37 condensed statement of the ballot title prepared pursuant to this
38 section on the sample ballot and the official ballot and may not
39 select or contract with another person to provide translations of
40 the same text.

SEC. 17. Section 9063 of the Elections Code is amended to read:

9063. The summary of a measure given in the press release shall be the official summary that has been prepared by the Legislative Analyst. The Legislative Counsel Bureau shall prepare the summary on all other measures.

SEC. 18. Section 9086 of the Elections Code is amended to read:

9086. The ballot pamphlet shall contain as to each state measure to be voted upon, the following, in the order set forth in this section:

(a) Upon the top portion of the first page, and not exceeding one-third of the page, shall appear:

(1) Identification of the measure by number and title.

(2) The official summary prepared by the Legislative Analyst.

(3) The total number of votes cast for and against the measure in both the State Senate and Assembly, if the measure was passed by the Legislature.

(b) Beginning at the top of the right page shall appear the analysis prepared by the Legislative Analyst, provided that the analysis fits on a single page. If it does not fit on a single page, the analysis shall begin on the lower portion of the first left page and shall continue on subsequent pages until it is completed.

(c) Arguments for and against the measure shall be placed on the next left and right pages, respectively, following the final page of the analysis of the Legislative Analyst. The rebuttals shall be placed immediately below the arguments.

(d) If no argument against the measure has been submitted, the argument for the measure shall appear on the right page facing the analysis.

(e) The complete text of each measure shall appear at the back of the pamphlet. The text of the measure shall contain the provisions of the proposed measure and the existing provisions of law repealed or revised by the measure. The provisions of the proposed measure differing from the existing provisions of law affected shall be distinguished in print, so as to facilitate comparison.

(f) The following statement shall be printed at the bottom of each page where arguments appear: "Arguments printed on this

page are the opinions of the authors, and have not been checked for accuracy by any official agency.”

SEC. 19. Section 13247 of the Elections Code is amended to read:

13247. (a) The statement of all measures submitted to the voters shall be abbreviated on the ballot. The statement shall contain not more than 75 words of each measure to be voted on, followed by the words, “Yes” and “No.” Abbreviation of measures to be voted on throughout the state shall be composed by the Legislative Analyst and shall be a condensed statement of the ballot title prepared by him or her.

(b) For purposes of measures to be voted on throughout the state, the limitation contained in subdivision (a) shall apply to the total number of words used in the condensed statement of the ballot title and the financial impact summary prepared pursuant to Section 9087 of this code and Section 88003 of the Government Code.

SEC. 20. Section 13262 of the Elections Code is amended to read:

13262. (a) The ballot shall contain the same material as to candidates and measures, and shall be printed in the same order as provided for paper ballots, and may be arranged in parallel columns on one or more ballot cards as required, except that the column in which the voter marks his or her choices may be at the left of the names of candidates and the designation of measures.

(b) If there are a greater number of candidates for an office or for a party nomination for an office than the number whose names can be placed on one pair of facing ballot pages, a series of overlaying pages printed only on the same, single side shall be used, and the ballot shall be clearly marked to indicate that the list of candidates for the office is continued on the following page or pages. If the names of candidates for the office are not required to be rotated, they shall be rotated by groups of candidates in a manner so that the name of each candidate shall appear on each page of the ballot in approximately the same number of precincts as the names of all other candidates.

(c) Space shall be provided on the ballot or on a separate write-in ballot to permit voters to write in names not printed on the ballot when authorized by law. The size of the voting square and the spacing of the material may be varied to suit the conditions imposed by the use of ballot cards, provided the size of the type

1 is not reduced below the minimum size requirements set forth in
2 Chapter 2 (commencing with Section 13100).

3 (d) The statement of measure submitted to the voters may be
4 abbreviated if necessary on the ballot, if each and every statement
5 of measures on that ballot is abbreviated. Abbreviation of matters
6 to be voted on throughout the state shall be composed by the
7 Legislative Analyst.

8 SEC. 21. Section 13281 of the Elections Code is amended to
9 read:

10 13281. The ballot label for measures to be voted on throughout
11 the state shall be composed by the Legislative Analyst and shall
12 be a condensed statement of the ballot title prepared by him or her.

13 SEC. 22. Section 13282 of the Elections Code is amended to
14 read:

15 13282. Whenever the Legislative Analyst prepares a condensed
16 statement of a ballot title, the Legislative Analyst shall file a copy
17 of the statement with the Secretary of State. The Secretary of State
18 shall make a copy of the statement available for public examination
19 prior to the printing of the statement on any ballot. The public shall
20 be permitted to examine the statement for at least 20 days, and the
21 Secretary of State may consolidate the examination requirement
22 under this section with the public examination requirements set
23 forth in Section 9092. A voter may seek a writ of mandate requiring
24 any statement, or portion thereof, to be amended or deleted. The
25 provisions set forth in Section 9092 concerning the issuance of the
26 writ and the nature of the proceedings shall be applicable to this
27 section.

28 SEC. 23. Section 18602 of the Elections Code is amended to
29 read:

30 18602. A person working for the proponent or proponents of
31 a statewide initiative or referendum measure who covers or
32 otherwise obscures the summary of the measure prepared by the
33 Legislative Analyst from the view of a prospective signer is guilty
34 of a misdemeanor.

35 SEC. 24. This bill shall become operative only if Assembly
36 Constitutional Amendment— 20 of the 2009–10 Regular Session
37 is approved by voters at a statewide general election.

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